SUPREME COURT OF THE UNITED STATES.

No. 164.

GRANVILLE S. OLDFIELD, PLAINTIFF IN ERROR,

vs.

WILLIAM H. MARRIOTT.

IN ERROR TO THE CIRCUIT COURT U. S. FOR MARYLAND.

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J. & G. S. Gideon, printers.

In the circuit court of the United States for the Maryland district, April term, 1848.

GRANVILLE S. OLDFIELD
vs
WILLIAM H. MARRIOTT.

Transcript of the record for the Supreme Court of the United States.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in April, in the year of our Lord one thousand eight hundred and forty-eight; present, the honorable Roger B. Taney, chief justice of the Supreme Court of the United States; Upton S. Heath, judge of Maryland district; William L. Marshall, esquire, attorney; Moreau Forrest, esquire, marshal; Thomas Spicer, clerk. Among other were the following proceedings, to wit:

GRANVILLE S. OLDFIELD
vs.
WILLIAM H. MARRIOTT.

Be it remembered, that heretofore, to wit, on the thirty-first day of March, in the year of our Lord one thousand eight hundred and forty-eight, the said Granville S. Oldfield, by George M. Gill, his attorney, declared in the circuit court here against the said William H. Marriott, in a plea of trespass on the case, &c., in the words and of the tenor following, to wit:

Declaration.

Circuit court of the United States, for the fourth circuit in and for the district of Maryland.

MARYLAND DISTRICT, *to wit:*

William H. Marriott, late of Maryland district, collector of the customs for the port of Baltimore, was attached to answer unto Granville S. Oldfield in a plea of trespass on the case, &c.

And thereupon the said Granville S. Oldfield, by George M. Gill, his attorney, complains: That whereas the defendant, on the twenty-sixth day of November, in the year of our Lord eighteen hundred and forty-seven, to wit, at the district aforesaid, acting in his office of collector aforesaid, demanded payment of the said plaintiff of the sum of two thousand and seventy dollars and sixty-one cents, for and by reason of certain duties claimed to be payable on account of certain coffee imported by the said plaintiff, and which payment was made by the said plaintiff to obtain possession of his coffee, but under protest nevertheless; whereby the said collector has become liable to pay to said plaintiff the said sum of two thousand and seventy dollars and sixty-one cents; and being so liable, promised the said plaintiff to pay the same. Whereas the said

defendant, collector as aforesaid, afterwards, to wit, on the day of , in the year , was indebted to the said plaintiff in the sum of two thousand and seventy dollars and sixty-one cents, current money, for money then and there lent by the plaintiff to the defendant at his request; and in a like sum of money for money by the plaintiff paid for the defendant at his request; and in a like sum of money for money then and there received by the defendant for the use of the plaintiff; and in a like sum of money for money found to be due from the defendant to plaintiff on an account then and there stated between them. And whereas the defendant afterwards, to wit, on the day and year last aforesaid, at the district aforesaid, in consideration of the premises respectively in this count mentioned, then and there promised to pay the said several sums of money, last above specified, to the plaintiff at request. Yet the defendant has disregarded his promises, and hath not paid any of the said sums of money, or any part thereof, to the damage of the plaintiff four thousand dollars; and thereupon he brings suit, &c.

GEO. M. GILL, *Atty. for plff.*
By G. L. DULANY.

Which said declaration is thus endorsed, to wit:

Agreement.

Mr. SPICER: Please to file this nar. as to April term, 1848, and enter plea of non assumpsit and issue, and docket suit by consent.

GEO. M. GILL,
Plaintiff's attorney.
By G. L. DULANY.
WM. L. MARSHALL,
For defendant.

And thereupon, at April term of the said circuit court, to wit, on the first Monday in April, in the year of our Lord one thousand eight hundred and forty-eight, come into the circuit court here the parties aforesaid, by their attorneys aforesaid.

Rule plea.

And thereupon, on motion of the said Granville S. Oldfield, by his attorney aforesaid, it is ruled by the court here that the said William H. Marriott answer to the declaration aforesaid of the said Granville S. Oldfield in the plea aforesaid, or judgment by the court here will be entered against him in default thereof.

Plea and issue.

And the said William H. Marriott, by his attorney aforesaid, defends the force and injury, when, &c., and saith, that he did not assume upon himself in manner and form as the aforesaid Granville S. Oldfield above against him hath complained; and of this he puts himself upon the country, and the said Granville S. Oldfield in like manner, &c.

And thereupon the parties aforesaid, by their attorneys aforesaid, file in the circuit court here the following statement of facts:

Statement of facts.

Circuit court of the United States, for the fourth circuit, Maryland district, April term, 1848.

GRANVILLE S. OLDFIELD
vs.
WILLIAM H. MARRIOTT, collector of the port of Baltimore.

It is agreed and admitted, in the above cause, that the brig Sandade Eterna, arrived at the port of Baltimore from Rio Janeiro, in Brazil, with a cargo of coffee, the production and growth of Brazil, on or about the 15th day of November, eighteen hundred and forty-seven; that the said brig was, at the time of said arrival and importation of said coffee, a regularly documented vessel of the kingdom of Portugal; that 1,188 bags of the coffee so imported *was* consigned to the plaintiff in the above cause, who proceeded, on the 16th of the said month of November, to make an entry of the same as if free of duty, and to obtain a permit, agreeably to such entry, to unload and discharge from said brig the said 1,188 bags of coffee so imported and consigned to him, as appears by the papers herewith filed and marked No. 1 and No. 2.

No. 1.—*Import entry.*

Import entry.—Entry of merchandise imported by G. S. Oldfield in the Portuguese brig Sandade Eterna, master, from Rio de Janeiro, 15th November, 1847.

B. 1 *a* 22. Eleven hundred [and] eighty-eight bags coffee, the Spanish dollar being 1,920 rs. - - Rs. 20,311,122

(Signed) JAS. POLK, *N. off.*

20,311,122 *a* 1,920 - - - - -		$10,578 70
Abatement for damage, per report appraisers - -		225 95
		$10,352 75
$10,579 *a* 20 per cent,	$2,115 80	
	80	
	$2,116 60, paid 27th Nov., 1847.	
Adjustment, $10,353 *a* 20 per cent. - - -		$2,070 60

COLLECTOR'S OFFICE,
District and port of Baltimore, June 1, 1848.

I certify, that the above is a true copy of original on file in this office.

WM. H. MARRIOTT, *Collector.*

Consignee, importer, or agent's oath.

DISTRICT OF BALTIMORE, *port of Baltimore:*

I, G. S. Oldfield, do solemnly and truly swear, that the invoice and bill of lading now presented by me to the collector of Baltimore are the true and only invoice and bill of lading by me received of all the goods, wares, and merchandise imported in the Sandade Eterna, whereof Tarrascoa is master, from Rio Janeiro, for the account of any person whomsoever for whom I am authorized to enter the same; that the said invoice and bill of lading are in the state in which they were actually received by me, and that I do not know or believe in the existence of any other invoice or bill of lading of the said goods, wares, and merchandise; that the entry now delivered to the collector contains a just and true account of the said goods, wares, and merchandise, according to the said invoice and bill of lading; that nothing has been, on my part, nor, to my knowledge, on the part of any other person, concealed or suppressed, whereby the United States may be defrauded of any part of the duty lawfully due on the said goods, wares, and merchandise; and that if, at any time hereafter, I may discover any error in the said invoice, or in the account now rendered of the said goods, wares, and merchandise, or receive any other invoice of the same, I will immediately make the same known to the collector of this district. And I do further solemnly and truly swear, that, to the best of my knowledge and belief, Samuel Santham & Co.

of the goods, wares, and merchandise mentioned in the annexed entry; that the invoice now produced by me exhibits the actual cost or fair market value, at the time or times, when and where,

of the said goods, wares, and merchandise, all the charges thereon, and no other or different discount, bounty, or drawback, but such as has been actually allowed on the same; this 16th day of November, 1847.

(Signed) G. S. OLDFIELD.

Sworn before,

(Signed) W. H. MARRIOTT, *Collector*.

No. 2.—Permit.

PORT OF BALTIMORE, *November* 16, 1847.

Permission is hereby granted to T. A. Tarrascoa, master of the brig called the Sandade Eterna, from the port of Rio de Janeiro, to unload out of said vessel—

B *a* 1 *a* 12. Eleven hundred [and] eighty-eight bags coffee.

G. S. OLDFIELD, *Consignee*.
WM. H. MARRIOTT, *Collector*.
JAS. POLK, *N. off*.

It is further admitted and agreed, that after the said permit had been given to the plaintiff, but that before any portion of the said coffee was unloaded from said brig under said permit, and before the permit was

delivered or shown to the inspector of customs of the aforesaid port, in whose charge the said vessel had been placed for custody and delivery of her cargo, the said permit was countermanded by the defendant, as collector as aforesaid, so far as he could legally countermand it, and the aforesaid entry made of the said coffee by the plaintiff as if the same were free of duty refused, so far as the said collector could refuse, and a claim and charge of duty of 20 per cent. ad valorem made by the said collector (amounting to $2,070 60) against the said coffee, as being due and payable upon the same, under the provisions of schedule S of the Tariff act of the United States, of the 3d July, 1846.

It is further admitted and agreed, that the said plaintiff wholly denied the legality of the said claim of duty made as aforesaid by the said collector, and protested against the payment of the same, and that only because of his inability to obtain possession of his said coffee without the payment of the said duty so claimed and demanded; and after filing with the said collector a protest and notice, of which the annexed paper, marked No. 3, is a copy, did the said plaintiff pay to the said collector the aforesaid sum of $2,070 60 as a duty upon the said coffee.

No. 3.—*Protest and notice.*

(Copy.) BALTIMORE, *27th November*, 1847.

WILLIAM H. MARRIOTT, ESQ.,

Collector of the customs of the port of Baltimore.

You are hereby notified, that on the 16th instant I prepared an entry of eleven hundred and eighty-eight bags of coffee, imported by me in the Portuguese brig Sandade Eterna, T. A. Tarrascon, master, from Rio de Janeiro, passed it at the custom-house, and received from you and the naval officer a permit to land it, free of duty. Since then, you have caused a suspension of its delivery until I shall have paid you a duty of twenty per cent. on the invoice value thereof, although I have shown by various extracts that several cargoes of coffee have arrived at New York, and one cargo at this port, all in Portuguese vessels, from Rio de Janeiro, and on which no duty was required to be paid. Under these circumstances, as I am compelled to pay the duty required by you, I have concluded to make such payment under protest, and to notify you that I have been advised that the aforesaid coffee is exempted from the payment of all duty by the laws of the United States, and that I design to bring an action at law against you, to try the legality of the demand made by you and payment of duties about to be made by me, and to take such other steps as may be necessary and proper to recover the amount of duties about to be paid by me to you under protest as aforesaid.

(Signed) G. S. OLDFIELD.

Copied from the original, Nov. 27, 1847.

L. R. MARIS.

It is further agreed, that a paper herewith filed, and marked No. 4, is a true copy of the decree of the government of Portugal, of which

it purports to be a translation and copy, and that the said decree had been in full force from the time of its date in all the dominions of the Queen of Portugal until and after the importation of the aforesaid coffee and payment of the duty hereinbefore mentioned.

No. 4. Decree of the Queen of Portugal.

(Copy.) TREASURY DEPARTMENT OF STATE.

Donna Maria, by the grace of God and the constitution of the monarchy, Queen of Portugal, &c., &c., make known to all our subjects that the General Cortes have decreed, and we have sanctioned, the following law:

Article 1.—The premium of 15 per centum granted by art. 1 of the decree of 16th January, 1837, to articles, merchandise, and manufactures, imported in Portuguese vessels, and entered at the custom-houses of the kingdom and adjacent islands, is abolished.

Sect. 1. Articles, merchandise, and manufactures, coming from countries or ports where the Portuguese flag is not admitted, imported and entered for consumption, shall pay the respective duties, and one fifth more of the amount of said duties.

Sect. 2. Articles, merchandise, and manufactures, coming from countries, or ports, where the Portuguese flag is admitted, and not subjected to differential duties, imported in foreign vessels, not of the country of the production of said articles, merchandise, and manufactures, and entered for consumption, shall also pay the respective duties, and one fifth more of the amount of said duties.

Sect. 3. Articles, merchandise, and manufactures, coming from countries or ports where the Portuguese flag may be subjected to differential duties, imported in foreign vessels, and entered for consumption, shall pay the respective duties, and the additional duties which the government is bound to impose on them according to article 8th of the general tariff of duties, organized in conformity to the law of the 11th of March, 1841.

Article 2.—The provisions of the present law shall commence to take effect three months after its publication, for articles, merchandise, and manufactures, which shall be entered in vessels coming from ports in Europe and North America, and six months for all other ports.

Article 3.—All contrary legislation is hereby revoked.

We therefore order all authorities, &c.

Given at the Palace of Necessidades, the 18th October, 1841.

THE QUEEN.

ANTONIO JOSE D'AVILA,
Secretary of the Treasury.

Article 8th of the general tariff law referred to.

A special order of the government shall authorize the collectors to receive an additional duty on goods imported from foreign countries, equivalent to the difference of duties which said nations shall make

between their national vessels and those of Portugal, or between Portuguese goods on their importation.

(And the said decree regulated and controlled within the Kingdom of Portugal the indirect trade between the United States of America and the Kingdom of Portugal at the time of the said importation and demand and payment of said duties; and that, under said decree, coffee and other articles of merchandise, the production and growth of Brazil, and imported into any port of the Kingdom of Portugal in vessels of the said United States, were subjected in said kingdom, by virtue of said decree, to the payment of a discriminating duty of twenty per cent. upon the amount of duty payable upon the same articles if imported into the Kingdom of Portugal in a Portuguese vessel.)

It is agreed that the facts herein stated may be modified and added to in such way as may be thought proper and necessary by the court for a full and correct presentation and decision of the issue in the cause.

It is also admitted that the said decree of Portugal is executed in like manner, in reference to all foreign vessels and their cargoes, as in reference to those of the United States.

It is also admitted that, since the passage of the Tariff act of 1846, several Portuguese vessels have arrived from Rio de Janeiro, in ports of the United States, with cargoes of coffee, the growth of Brazil; that such coffee was admitted free of duty, the Secretary of the Treasury not having been consulted in reference thereto, and having given no directions about the same.

It is further agreed that the court shall render a judgment, upon this statement, for the plaintiff or for the defendant, according to the views which the court may take of the law of the case; and that either party may prosecute a writ of error from whatsoever judgment may be rendered by the court in this case.

GEO. M. GILL, *for pl'tff.*
W. L. MARSHALL, *for defend't.*

Judgment.

Whereupon all and singular the premises being seen, heard, and by the court here fully understood, for that it appears to the court here that the said Granville S. Oldfield is not entitled to recover in the plea aforesaid: Therefore, it is considered by the court here that the said Granville S. Oldfield take nothing by his declaration aforesaid, but that he be in mercy for his false clamor; and that the said William H. Marriott go thereof without day, &c. And it is also considered, by the court here, that the said William H. Marriott recover against *against* the said Granville S. Oldfield the sum of twelve dollars and fifty cents, by the court here unto him, the said William H. Marriott, on his assent, adjudged for his costs and charges by him about his defence in this behalf laid out and expended, and that he have thereof his execution against the said Granville S. Oldfield, &c.

Afterwards, to wit, on the twenty-fourth day of April, in the year of our Lord one thousand eight hundred and forty-eight, the said Granville S. Oldfield, by his attorney aforesaid, produced to the said circuit court here the writ of the said United States of America, for the correcting of errors of and upon the premises, commanding the record and proceedings of the judgment aforesaid so as aforesaid rendered, with all things concerning the same, to be transmitted to the Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next; which said writ of error is in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA:

The President of the United States, to the judges of the circuit court of the United States, for the district of Maryland, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said circuit court before [L. S.] you or some of you, in which Granville S. Oldfield is plaintiff in error, and William H. Marriott is defendant in error, a manifest error hath happened to the great damage of the said Granville S. Oldfield, as by his complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington, on the first Monday in December next, in the said Supreme Court to be then and there held; that the record and proceedings being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the laws and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-seven.

THOMAS SPICER, *Clerk, Circuit Court*.

G. M. G. Issued 24th April, 1848.

In pursuance whereof, and according to the form and effect of the act of Congress in such case made and provided, a transcript of the record and proceedings of the judgment aforesaid so as aforesaid rendered, with all things relating to the same, together with the said writ of error, are hereby transmitted to the said Supreme Court accordingly.

THE UNITED STATES OF AMERICA:

To William H. Marriott, greeting:

You are hereby cited and admonished to appear at a Supreme Court of the United States, to be held at the city of Washington on the first

Monday in December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the fourth circuit, in and for the Maryland district, wherein Granville S. Oldfield is plaintiff in error, and William H. Marriott is defendant in error, to shew cause, if any there be, why the judgment rendered against the said Granville S. Oldfield, in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal, this tenth day of June, one thousand eight hundred and forty-eight.

R. B. TANEY. [SEAL.]

I acknowledge notice of the above citation.

W. T. MARSHALL.
For W. H. MARRIOTT.

Writ of error bond.

Know all men by these presents, that we, Granville S. Oldfield, R. Wilson, and John G. Chappell, of the city of Baltimore, in the district of Maryland, are held and firmly bound unto William H. Marriott, of the same place, in the just and full sum of five hundred dollars, lawful money of the United States, to be paid to the said William H. Marriott, his heirs, executors, administrators, or assigns; to which payment, well and truly to be made and done, we hereby bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this seventh day of June, in the year of our Lord one thousand eight hundred and forty-eight.

Whereas heretofore, to wit, on the 31st day of March, in the year eighteen hundred and forty-eight, the said Granville S. Oldfield instituted his suit in the circuit court of the United States, for the fourth circuit, in and for the Maryland district, against the said William H. Marriott, collector of the customs for the port of Baltimore, for the recovery of the sum of two thousand and seventy dollars and sixty-one cents, being the amount of duties paid by the said Granville S. Oldfield on a cargo of coffee imported into the port of Baltimore.

And whereas, also, in the said court, begun and held at the city of Baltimore, on the first Monday in April, in the year of our Lord one thousand eight hundred and forty-eight, judgment on a statement of facts was rendered for the defendant.

And whereas the said Granville S. Oldfield hath sued out the writ of the said United States of America for the correcting of errors, and a citation directed to the said William H. Marriott, citing and admonishing him to be and appear at a Supreme Court of the United States, to be held at the city of Washington on the first Monday in December next, to shew cause, if any there be, why the judgment so as aforesaid rendered, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Now, the condition of the above obligation is such, that if the said Granville S. Oldfield shall well and truly prosecute with effect his said writ of error, and pay to the said William H. Marriott the costs and charges which have been adjudged to him in the said circuit court, and also all such costs and charges which may be awarded by the said Supreme Court, in case he, the said Granville S. Oldfield, shall fail to make good his said plea, then the above obligation to be void, otherwise to be and remain in full force and virtue.

G. S. OLDFIELD, [SEAL.]
R. WILSON, [SEAL.]
JOHN G. CHAPPELL. [SEAL.]

Signed, sealed, and delivered in the presence of—
L. R. MARIS,
Witness for *Mr. Chappell* and *John H. Nantz*.

I agree to take this bond, believing the sureties to be ample.
WM. L. MARSHALL,
U. S. Attorney for Md.

Approved: R. B. TANEY.

In testimony that the aforegoing is a true copy, taken from the records and proceeding of the circuit court aforesaid, I hereunto subscribe my name and affix the seal of the said circuit court, this thirteenth day of June, in the year of our Lord one thousand eight hundred and forty-eight. [L. S.]

THOMAS SPICER,
Clerk, Circuit Court.

Filed July 7, 1848.